

WSR 23-05-049

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)

[Filed February 10, 2023, 8:27 a.m., effective March 13, 2023]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of these amendments is to expand enhanced case management program (ECMP) capacity and clarify appeal rights regarding enrollment onto the ECMP caseload.

Citation of Rules Affected by this Order: New WAC 388-829B-600; and amending WAC 388-829B-200, 388-829B-300, and 388-829B-400.

Statutory Authority for Adoption: RCW 71A.12.030.

Other Authority: RCW 71A.12.320 and chapter 43.382 RCW.

Adopted under notice filed as WSR 23-01-058 on December 14, 2022.

Changes Other than Editing from Proposed to Adopted Version: In WAC 388-829B-200, the definition of "caregiver" was amended to remove reference to developmental disabilities administration (DDA)-contracted providers. These caregivers, individual providers, no longer contract with the DDA and are now managed by the Consumer Direct Care Network of Washington.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 0.

Date Adopted: February 10, 2023.

Katherine I. Vasquez
Rules Coordinator

SHS-4954.5

AMENDATORY SECTION (Amending WSR 18-07-073, filed 3/19/18, effective 4/19/18)

WAC 388-829B-200 What definitions apply to this chapter? The following definitions apply to this chapter.

~~(("CARE assessment" means an inventory and evaluation of a client's strengths and limitations based on an in-person interview in the client's home or place of residence.))~~

"Caregiver" means a person ~~((contracted with the developmental disabilities administration (DDA) to))~~ who provides ~~((medicaid or waiver))~~ personal care~~((,))~~ or respite care~~((, or attendant care services))~~ services to DDA clients.

"**Client**" means a person who has a developmental disability as defined in RCW 71A.10.020(~~((5-))~~) and has been determined eligible to receive services by DDA under chapter 71A.16 RCW.

"**Collateral contact**" means a person or agency that is involved in the client's life, such as a legal guardian, family member, provider, or friend.

"DDA assessment" means an inventory and evaluation, under chapter 388-828 WAC, of a client's strengths and limitations based on an interview with the client. For the purposes of this chapter, the DDA assessment includes the "DDA assessment details."

"**Independent supports**" means an adult, other than the client's paid caregiver, who observes the care a client receives from their paid caregiver.

[Statutory Authority: RCW 71A.12.030 and chapters 71A.12, 43.382 RCW. WSR 18-07-073, § 388-829B-200, filed 3/19/18, effective 4/19/18.]

AMENDATORY SECTION (Amending WSR 18-07-073, filed 3/19/18, effective 4/19/18)

WAC 388-829B-300 Who may DDA enroll in the enhanced case management program? The developmental disabilities administration (DDA) may enroll a client in the enhanced case management program if the client ~~((is largely dependent on a paid caregiver in the client's home))~~ is currently assessed to be eligible for medicaid personal care or community first choice (CFC) services in their home under chapter 388-106 WAC and meets criteria under subsection (1), (2), or (3) of this section.~~((÷))~~

(1) The client's DDA assessment indicates that the home environment may jeopardize the client's health or safety.

~~((1-))~~ (2) The client's ((CARE)) DDA assessment indicates the client:

(a) ((Is not always able to supervise their)) Has difficulty communicating their needs and wants to their caregiver or informing someone when their needs are not being met;

(b) Has ((communication barriers)) a limited ability to advocate for themselves or express themselves, and has few documented collateral contacts; and

(c) Lacks additional, independent supports that regularly help the client monitor the care being provided in their home.~~((÷ or~~

~~((2) The client lives with the paid caregiver and:~~

~~((a) The client has been the subject of an adult protective services or child protective services referral in the past year; or~~

~~((b-))~~ (3) DDA has concerns that the ((home environment or)) quality of care may jeopardize the client's health or safety~~((÷))~~ for reasons such as:

(a) The client has been the subject of an adult protective services referral in the past year;

(b) The client has been the subject of a child protective services referral in the past year;

(c) The client's DDA assessment indicates the client is underweight;

(d) The client's DDA assessment indicates that the primary caregiver is age 65 or older or states that they are "very stressed," and

the caregiver states that the caregiving situation is at "serious risk of failure" or there is concrete evidence of reduced care; or

(e) The client has experienced a destabilizing event, such as a loss of a primary caregiver, hospitalization, or victimization.

[Statutory Authority: RCW 71A.12.030 and chapters 71A.12, 43.382 RCW. WSR 18-07-073, § 388-829B-300, filed 3/19/18, effective 4/19/18.]

AMENDATORY SECTION (Amending WSR 18-07-073, filed 3/19/18, effective 4/19/18)

WAC 388-829B-400 How often must the case manager visit the enhanced case management program client? (1) The client's case manager must visit each enhanced case management program client at least once every four months at the client's home, including unannounced visits as needed. Each required visit must not occur more than four months apart.

(2) An unannounced visit may replace a scheduled visit.

~~(3) ((If a client declines a visit, announced or unannounced, the case manager must document the declined visit in the enhanced case management program section in the comprehensive assessment reporting and evaluation (CARE) tool.~~

~~(4))~~ If the case manager is unable to meet with the client for a ~~((required))~~ visit, the case manager must:

(a) ((s)) Schedule a follow-up visit as soon as possible and no later than ((thirty)) 30 days((-)); and

(b) Document that the visit did not occur.

[Statutory Authority: RCW 71A.12.030 and chapters 71A.12, 43.382 RCW. WSR 18-07-073, § 388-829B-400, filed 3/19/18, effective 4/19/18.]

NEW SECTION

WAC 388-829B-600 May a client appeal an enrollment decision for the enhanced case management program? A client does not have a right to appeal:

(1) A decision whether or not to enroll on the enhanced case management program; or

(2) A decision to transfer off the enhanced case management program.

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